



Appeal Decision

Site visit made on 3 December 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/W2465/W/19/3237685

184 Tithe Street, Leicester LE5 4BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Satnam Kaur Birk against Leicester City Council.
 - The application Ref: 20190785, is dated 17 July 2019.
 - The development proposed is a new industrial unit Class B2 to the rear.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Satnam Kaur Birk against Leicester City Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted an appeal statement which sets out its objections. As this concerns the matters of dispute with the appellant, it forms the basis of the main issues in this case.

Main Issues

4. The main issues are the effect of the proposal on (i) highway safety and the free flow of traffic regarding the proposed car parking and servicing arrangements; (ii) the living conditions of the occupiers of the nearest residential properties on Haynes Road by way of outlook, noise and disturbance; and (iii) biodiversity interests.

Reasons

Highway Safety

5. The part of the appeal site where the proposed industrial unit would be sited contains an earth embankment with dense vegetation and trees. A low retaining wall and a small area of hardstanding separate it from the existing industrial unit at No 184. There is a narrow area to the side of the existing unit and a neighbouring unit that has to be utilised in order to gain access to the part of the site where the proposed unit would be located.

6. More broadly, the site lies in a courtyard arrangement of similar units that are found at the end of Tithe Street and in a larger industrial area. Tithe Street and the surrounding roads are well used for on-street car parking and at the time of my site visit there were few free spaces. This also restricts the capacity of the roads because it limits their potential to accommodate traffic.
7. Due to the constraints of the site, the proposed unit would be located a short distance from the existing unit. The area in between that would be used for off-street car parking for the proposed unit would be of a limited size. The submitted plans seek to address this by way of an echelon arrangement. However, the manoeuvrability that would be required to utilise these spaces would be markedly restricted with the proximity to the rear wall of the existing unit, as is shown by the indicated turning spaces. Access would also depend on utilising the narrow space with the adjacent unit, based on how the turning spaces are shown.
8. When these factors are taken together, this would represent an unsatisfactory parking arrangement and result in a likely displacement of car parking onto the surrounding roads. As a result, it would place further undue pressure on the limited on-street car parking opportunities there are in the area and further restrict road capacity.
9. The servicing arrangements for the proposed unit would similarly be inadequate. It is not evident how such vehicles could manoeuvre around the site in order to enter and exit safely, as well as having to negate the narrow space with the adjacent unit for access purposes.
10. These are not matters that could be addressed through the imposition of planning conditions because it is not clear how they could be overcome through the proposed layout that is for my consideration and informs my decision. Hence, such a condition would not be reasonable. In addition, the potential to provide adequate cycle parking on site and accord with Saved Policy AM02 of the City of Leicester Local Plan (2006) (LP) does not address my wider highway safety concerns. I see no reason to disagree with the views expressed by the Highway Authority as regards the proposed car parking layout and servicing standards.
11. The National Planning Policy Framework makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. With the harm that would arise, there would be an unacceptable impact on highway safety.
12. I conclude that the proposal would have an unacceptable effect on highway safety and the free flow of traffic regarding the proposed car parking and servicing arrangements. As such, it would not comply with Saved Policy AM11 of the LP which concerns parking provision within non-residential development, including the consideration of the availability, accessibility and safety of existing or alternative car parking provision, amongst other considerations.

Living Conditions

13. Residential properties on Haynes Road lie to the north of the site. These terraced houses are set back with fairly long rear gardens that extend up to the

- short sections of their boundaries that abut the site. Windows on the rear elevations of these properties face over their gardens towards the site.
14. The side elevation of the proposed unit that would be close to the boundary with these properties would reach a height of around 4.6 metres, with the roof then angling further away. With these proportions and the separation distances from the houses, it would not unduly effect their outlook, even though it would be closer than would be envisaged under the guidance that the Council has referred to in its Residential Amenity Supplementary Planning Document. Accordingly, the removal of the embankment and the trees would also not cause undue harm in this respect.
 15. The same applies as regards the potential for noise and disturbance associated with the use. This side elevation of the proposed unit would be designed so that it would not contain openings and thus it would limit the potential for such disruption. This would also adequately address the loss of the embankment and the trees concerning any protection from noise that they provide. If I was minded to allow the appeal, adequate controls could also be applied through conditions concerning the proposed hours of operation, noise generation from machinery and works to the embankment.
 16. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of the nearest residential properties on Haynes Road by way of outlook, noise and disturbance. Therefore, it would comply with Saved Policies PS10, PS11 and UD06 of the LP in this regard which concern the amenity of existing residents, taking into account noise and visual quality, the amenity value of landscape features and controlling proposals which have the potential to pollute including by way of noise, amongst other considerations.

Biodiversity

17. The potential biodiversity interest in the site lies in trees and vegetation that are found on and around the embankment. The submitted Ecology Report does not indicate a reasonable likelihood of protected species being present. It acknowledges that the dense nature of the vegetation results in access limitations. However, it provides an informed assessment that is proportionate to the value of the site. Furthermore, it sets out a number of recommendations including a biodiversity enhancement plan and a method statement for the removal of trees and vegetation. These are also matters which could be dealt with by the imposition of planning conditions, if the appeal was to be allowed.
18. With the location of the trees and vegetation to the rear of the existing industrial unit and their somewhat unmanaged appearance, they also have limited value as landscape features. How they concern the nearest residential properties is dealt with earlier in my decision.
19. I conclude that the proposal would not have an unacceptable effect on biodiversity interests. It would accord with Saved Policy UD06 of the LP in this regard and with Policy CS03 of the Core Strategy (2010, as revised 2014) where they relate to landscape features, and contributing positively to the character and appearance of the local natural and built environment.

Other Matters

20. The harm arises from the particular site circumstances, especially with the confines of the site and how this would result in the parking and servicing concerns that I have identified. Based on the evidence before me, it is not the same situation as regards the other planning permissions in the same industrial area that the appellant has referred me to, nor the alleged uses. Consequently, they have a limited bearing on my decision.
21. Matters have also been raised in relation to whether or not the proposal would be in principle acceptable. The Council has referred to that the site lies within a 'Primarily Employment Area'. The matters of dispute centre though on the detailed planning considerations that are set out in the Council's putative reasons for refusal. For the reasons that I have set out, the highway safety concerns do not favour the proposal. In coming to this view, I have considered the amended plans that the appellant submitted prior to lodging the appeal.
22. The proposal would result in economic benefits by way of employment, and industrial and storage space. However, these benefits would be on a minor basis. They would not outweigh the significant harm that would be caused to highway safety due to the inadequate parking and servicing arrangements, and this is decisive. All other issues carry neutral weight.
23. My decision depends on the particular consideration of the main planning issues. Hence, the advice that the appellant received from the Council at the pre-application stage does not alter my conclusion.

Conclusion

24. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

Darren Hendley

INSPECTOR